

STATE OF INDIANA ) IN THE DEARBORN CIRCUIT COURT  
 ) SS:  
COUNTY OF DEARBORN ) CAUSE NO. 15C01-0609-CC-0040

STATE OF INDIANA, )

Plaintiff, )

v. )

AMERICAN AUTO SALES OF INDIANA, INC., )  
WALTER F. BATES, individually, and doing )  
business as, American Auto Sales of Indiana, Inc., )  
and DEALER SERVICES CORPORATION, )

Defendants. )

**FILED**

JAN 18 2008

*Phelps D. Warner*  
CLERK OF DEARBORN CIRCUIT COURT

**MOTION FOR DEFAULT JUDGMENT AS TO DEFENDANT  
AMERICAN AUTO SALES OF INDIANA, INC.**

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Mary Ann Wehmuller, pursuant to Trial Rule 55 of the Indiana Rules of Trial Procedure, respectfully moves the Court to enter a default judgment against the Defendant, American Auto Sales of Indiana, Inc. (hereinafter, "American") and in support states:

1. On September 1, 2006 the Plaintiff filed its Complaint for Injunction, Restitution, Civil Penalties, and Costs.
2. A copy of the complaint and summons was served on Defendant American's Registered Agent on September 8, 2006.
3. More than twenty (20) days have elapsed since the Defendant was served.
4. To date, Defendant American has failed to file an answer, plead, or request an extension of time in which to answer the State's complaint.
5. The Plaintiff has expended 10.25 hours in the investigation and prosecution of this case, as shown by the affidavit of Mary Ann Wehmuller hereto attached as Exhibit "A".

**WHEREFORE**, the Plaintiff, State of Indiana, requests the Court enter judgment against Defendant, American Auto Sales of Indiana, Inc., as follows:

- a. A permanent injunction pursuant to Ind. Code §24-5-0.5-4(c)(1), enjoining American, its agents, representatives, employees, successors, and assigns, from:
  - (1) selling motor vehicles without delivering vehicle titles as required by Ind. Code §9-17-3-3;
  - (2) misrepresenting that the sale of vehicles includes extended service contracts/warranties when warranties or contracts will not or cannot be provided as represented in violation of Ind. Code §24-5-0.5-3(a)(8);
  - (3) misrepresenting the terms and conditions of pay-off agreements in violation of Ind. Code §24-5-0.5-3(a)(1), and
  - (4) misrepresenting its ability to complete the subject of a consumer transaction within a stated or reasonable period of time in violation of Ind. Code §24-5-0.5-3(a)(10).
- b. Restitution pursuant to Ind. Code §24-5-0.5-4(c)(2), wherein the Court directs the Indiana Bureau of Motor Vehicles to issue a title to consumer Jason Ranz;
- c. Costs pursuant to Ind. Code §24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;
- d. Civil penalties pursuant to Ind. Code §24-5-0.5-4(g), for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of

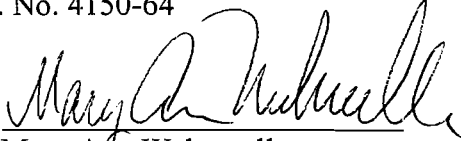
\$5,000.00 per violation, payable to the State of Indiana;

e. Civil penalties pursuant to Ind. Code §24-5-0.5-8, for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of \$500.00 per violation, payable to the State of Indiana; and

f. All other proper relief.

Respectfully submitted,

STEVE CARTER  
Indiana Attorney General  
Atty. No. 4150-64

By:   
Mary Ann Wehmuller  
Deputy Attorney General  
Atty. No. 15251-49A  
doc: 448037

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**AFFIDAVIT SUPPORTING REQUEST FOR ATTORNEY FEES AND COSTS**

Mary Ann Wehmuller does hereby affirm that:

1. Affiant is counsel for the Plaintiff, State of Indiana, in the above cause of action.
2. Affiant has kept detailed records of the work she has done for the Plaintiff with respect to this cause and the time spent on each task.
3. Reviewing the records that affiant prepared, affiant has compiled the following summary of her work relating to this cause of action:

<u>DATE</u>	<u>DESCRIPTION OF ACTIVITY</u>	<u>HOURS</u>
08/03/2006	Reviewed consumer files began draft of complaint	2.2
08/17/2006	Worked on complaint draft	1.2
08/18/2006	Finished complaint draft	1.3
09/01/2006	Complaint filed	0.3
09/08/2006	Drafted Carter affidavit & cover letter	0.4
09/11/2006	Drafted affidavits & letters for: Lohide, Reimann, Schmidt, Smith, Weber, and Walsman	0.9
09/14/2006	Drafted Petition for Court Ordered Title	1.75



10/16/2006	Revised & filed Petition for Court Ordered Title	0.5
01/??/2008	Began Draft of Motion for Default Judgment	1.3
01/14/2008	Finished Draft Motion for Default Judgment	0.4

**Total 10.25 hours**

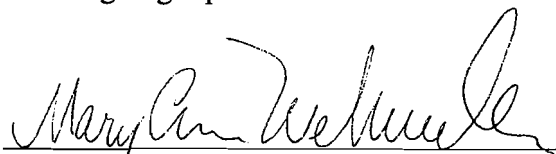
4. The Plaintiff is entitled to an award of costs incurred in the investigation and prosecution of this action pursuant to Indiana Code §24-5-0.5-4(g).

5. Affiant has been engaged in the practice of law for over 15 years, and a reasonable attorney fee for the work affiant has performed during the investigation and prosecution of this action is \$150.00 per hour.

6. All of the above statements are within affiant's personal knowledge.

FURTHER AFFIANT SAYETH NOT.

I affirm, under the penalties for perjury, that the foregoing representations are true.



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